

MONTANA LEGISLATIVE HISTORY

Chapter 484 19 93

Bill H 233 S _____

Original bill & history ☒ c

H. Committee on Highways

Hearing Date(s) _____ c

1/29 ☒ c

_____ c

_____ c

Date Out

2/10 ☒ c

S. Committee on Highways

Hearing Date(s) _____ c

3/9 ☒ c

18 ☒ c

31 _____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE BILL NO. 233

INTRODUCED BY BENEDICT, RYE, DOWELL, J. RICE,
QUILICI, MERCER, SQUIRES, BARNETT, GRINDE, HALLIGAN

IN THE HOUSE

JANUARY 19, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

FEBRUARY 12, 1993

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 13, 1993

PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 15, 1993

ENGROSSING REPORT.

FEBRUARY 16, 1993

THIRD READING, PASSED.
AYES, 95; NOES, 3.

FEBRUARY 17, 1993

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

MARCH 31, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

ON MOTION, PRINTED AND PLACED ON
SECOND READING THIS DAY.

SECOND READING, CONCURRED IN.

APRIL 1, 1993

THIRD READING, CONCURRED IN.
AYES, 43; NOES, 5.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 6, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 12, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 233
 2 INTRODUCED BY Benedict R. Dwyer
 3 Julian M. Aguado Barnett Carlos Kelly
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DRIVER OF
 5 A MOTOR VEHICLE TO YIELD TO A PEDESTRIAN CROSSING THE
 6 ROADWAY WITHIN A CROSSWALK WHEN THE PEDESTRIAN IS NOT UPON
 7 THE HALF OF THE ROADWAY UPON WHICH THE VEHICLE IS TRAVELING
 8 AND WHEN THE PEDESTRIAN IS NOT CLOSE ENOUGH TO BE IN DANGER;
 9 AND AMENDING SECTION 61-8-502, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 61-8-502, MCA, is amended to read:

13 "61-8-502. Pedestrians' right-of-way in crosswalk. (1)
 14 When traffic-control signals are not in place or not in
 15 operation, the driver of a vehicle shall yield the
 16 right-of-way, slowing down or stopping if need be to so
 17 yield, to a pedestrian crossing the roadway within a marked
 18 ~~crosswalk when the pedestrian is upon the half of the~~
 19 ~~roadway upon which the vehicle is traveling or when the~~
 20 ~~pedestrian is approaching so closely from the opposite half~~
 21 ~~of the roadway as to be in danger~~ or within an unmarked
 22 crosswalk at an intersection, but no a pedestrian shall may
 23 not suddenly leave a curb or other place of safety and walk
 24 or run into the path of a vehicle which that is so close
 25 that it is impossible for the driver to yield. This

1 provision shall does not apply under the conditions stated
 2 in 61-8-503(2).

3 (2) ~~Whenever any~~ When a vehicle is stopped at a marked
 4 crosswalk or at any an unmarked crosswalk at an intersection
 5 to permit a pedestrian to cross the roadway, the driver of
 6 any other vehicle approaching from the rear shall may not
 7 overtake and pass such the stopped vehicle.

8 (3) It is unlawful for any person to drive a motor
 9 vehicle through a column of school children crossing a
 10 street or highway or past a member of the school safety
 11 patrol while the member of the school safety patrol is
 12 directing the movement of children across a street or
 13 highway and while the school safety patrol member is holding
 14 his an official signal in the stop position."

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN ROBERT C. CLARK, on January 29, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Shiell Anderson (R)
Rep. Joe Barnett (R)
Rep. Bill Endy (D)
Rep. Pat Galvin (D)
Rep. Marian Hanson (R)
Rep. Vern Keller (R)
Rep. Don Larson (D)
Rep. Gary Mason (R)
Rep. Bill Ryan (D)
Rep. Wayne Stanford (D)
Rep. Bill Tash (R)
Rep. Randy Vogel (R)
Rep. Tim Whalen (D)

Members Excused: Rep. David Ewer (D)
Rep. Karyl Winslow, Vice Chairman (R)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Kimberlee Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 233, HB 232, HB 256, HB 270
Executive Action: HB 232, HB 256, SB 56

HEARING ON 233

Opening Statement by Sponsor:

REP. STEVE BENEDICT, HD 64, Hamilton, stated HB 233 requires the driver of a motor vehicle yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian begins crossing. Current law states a motor vehicle must yield to a pedestrian when they are in the lane of traffic or close enough to that lane

of traffic to present a hazard. This bill stipulates that once the pedestrian starts crossing the street both lanes of traffic would need to stop until that pedestrian is across the street. REP. BENEDICT said the handicapped have a problem crossing streets and this bill would help them.

Proponents' Testimony:

Joe Lear, Director of Public Works, Missoula, stated the city of Missoula supports this bill for two reasons. In the city of Missoula we have air quality problems and one of the things we are trying to promote is the use of bicycles and walking. This bill will make it easier for people to get across the streets. Safety is also an issue and the way the law is written today is that the pedestrian would have to leave the sidewalk and start walking until he is in danger and then the vehicle must stop.

REP. VOGEL, HD 86, Billings, speaking in support of the bill, stated that last summer he went through all the city codes and when he came to this one and read through it he thought that it didn't make sense.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. KELLER asked if signage would have to be provided. Mr. Lear stated no, that most states already have this law.

REP. BARNETT stated that REP. FOSTER has a bill coming which deals with crosswalks and asked REP. BENEDICT if he was familiar with that bill. REP. BENEDICT stated no, and that he would have no objection to holding the bill in committee until REP. FOSTER'S comes through.

REP. HANSON asked REP. BENEDICT if he used another state as a pattern for this bill. REP. BENEDICT stated it is modeled after California law.

Closing by Sponsor: REP. BENEDICT closed.

HEARING ON HB 232

Opening Statement by Sponsor:

REP. BOB CLARK, HD 31, Ryegate, stated HB 232 places a provision in the law that any vehicle with three axles, manufactured after January 5, 1980, will be required to have brakes on the steering axle.

Proponents' Testimony:

Col. Bob Griffith, Chief, Montana Highway Patrol, stated that the reason for this piece of legislation is to bring Montana into

HOUSE OF REPRESENTATIVES
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

Jan. 29, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. KARYL WINSLOW - VICE CHAIR			✓
REP. SHIELL ANDERSON	✓		
REP. JOE BARNETT	✓		
REP. BILL ENDY	✓		
REP. DAVID EWER			✓
REP. PAT GALVIN - VICE CHAIR	✓		
REP. MARIAN HANSON	✓		
REP. VERN KELLER	✓		
REP. DON LARSON	✓		
REP. GARY MASON	✓		
REP. BILL RYAN	✓		
REP. WAYNE STANFORD	✓		
REP. BILL TASH	✓		
REP. RANDY VOGEL	✓		
REP. TIM WHALEN	✓		
CHAIR BOB CLARK	✓		

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME JOSEPH ALDEGARIE BILL NO. HR-233

ADDRESS 435 RYMAN, MISSOULA 59802 DATE 1/29/93

WHOM DO YOU REPRESENT? CITY OF MISSOULA

SUPPORT X OPPOSE _____ AMEND _____

COMMENTS: WILL GIVE ORAL COMMENTS

REP. WINSLOW asked if Mr. Leck could explain the orphan plan. Mr. Leck stated the orphan plan is sections of road that are old pieces of primary road where the function was replaced by the interstate system. When the federal government froze the maintenance responsibility in 1977, the stated ended up with the responsibility on these particular pieces of road and which is why they were called orphan roads.

REP. WINSLOW asked how the orphan roads fit into this bill. Mr. Leck stated the orphan roads will be designated state highways.

REP. WINSLOW also asked how these orphan roads will receive maintenance. Mr. Leck replied the state already maintains them and cannot use federal aid funds on orphan roads.

REP. TASH asked if an orphan road can be designated a scenic highway. Mr. Kologi stated the roads being discussed are designated scenic highways by the forest service and are functionally classified as major collectors. The county could put it on the secondary system, but this would not create any more money for the counties.

REP. TASH also asked if there was anyway to prioritize these monies better. Mr. Kologi stated trying to get money on the right jobs, at the right time is a problem.

Closing by Sponsor:

SEN. WEEDING stated the Montana Motor Carriers are in favor of this bill and there were no opponents to the bill in the senate meeting. This is a good system, however, it is something that can be changed if there are problems in the future. He recommends a Be Concurred In vote on this bill.

EXECUTIVE ACTION ON HB 233

Motion/Vote: REP. VOGEL MOVED HB 233 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 198

Motion/Vote: REP. MASON MOVED SB 198 BE CONCURRED IN. Motion carried unanimously.

HOUSE OF REPRESENTATIVES
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

Feb. 10, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. KARYL WINSLOW - VICE CHAIR	✓		
REP. SHIELL ANDERSON	✓		
REP. JOE BARNETT	✓		
REP. BILL ENDY	✓		
REP. DAVID EWER			✓
REP. PAT GALVIN - VICE CHAIR	✓		
REP. MARIAN HANSON	✓		
REP. VERN KELLER	✓		
REP. DON LARSON	✓		
REP. GARY MASON	✓		
REP. BILL RYAN	✓		
REP. WAYNE STANFORD	✓		
REP. BILL TASH	✓		
REP. RANDY VOGEL	✓		
REP. TIM WHALEN	✓		
CHAIR BOB CLARK	✓		

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 233 (first reading copy -- white) do pass.

Signed: Robert C. Clark
Robert C. Clark, Chair

EXECUTIVE ACTION ON HOUSE BILL 565

Motion:

CHAIRMAN WEEDING moved THE AMENDMENT he had Tom Gomez prepare (Exhibit #3).

Discussion:

CHAIRMAN WEEDING said he had talked to Rep. Wyatt about these amendments and she had agreed to them.

SEN. BRUSKI-MAUS asked how she could vote on this amendment when she was trying to get Ekalaka/Alzada on this trail. After SEN. BRUSKI-MAUS could not produce evidence that Charles Russell had ever been to Ekalaka or Alzada, the Committee rescinded its offer to introduce a later amendment to that effect.

CHAIRMAN WEEDING stated that Jordan was the location of the Charles M. Russell National Wildlife Refuge and an extension of the proposed Charles M. Russell Trail to that point was appropriate.

Vote: The MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

SEN. HARP moved HB 565 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

CHAIRMAN WEEDING will carry HB 565 on the Senate floor.

EXECUTIVE SESSION ON HOUSE BILL 232

Discussion:

SEN. SWYSGOOD requested that the Committee wait before taking executive action on HB 232 because he had not yet received the information he needed in order to know whether he could support HB 232 in its current form or if an amendment was necessary.

HEARING ON HOUSE BILL 233

Opening Statement by Sponsor:

Since Rep. Benedict, HB 233's sponsor, had not yet arrived SEN. SWYSGOOD made a few opening statements in the interest of time. He read the title of HB 233 and stated HB 233 would give pedestrians the right-of-way when they begin to cross a street at an intersection.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. TVEIT asked SEN. SWYSGOOD if HB 233 would create a situation in which once a pedestrian steps onto the crosswalk the cars must stop. SEN. SWYSGOOD replied yes. SEN. BRUSKI-MAUS added that would also apply if a pedestrian stepped onto the street within an unmarked crosswalk at an intersection.

SEN. TVEIT asked if that meant as soon as a pedestrian steps off the corner onto the street traffic must stop. SEN. SWYSGOOD replied yes, and added that he thought HB 233 was a good piece of legislation.

SEN. STANG stated Rep. Kadas had introduced a similar bill a few years previously which was killed by the House Highways Committee.

SEN. BRUSKI-MAUS informed the Committee that Miles City had strictly enforced a similar law for many years. She stated when a pedestrian steps off the sidewalk and onto the roadway, traffic must stop.

SEN. SWYSGOOD said in his community pedestrians are expected to use caution and cross the street at designated places, but in many rural towns people cross the street whenever and wherever they choose. According to SEN. SWYSGOOD, in his town drivers give pedestrians the right-of-way and the law enforces that policy. He stated HB 233 would make that policy part of the statute.

SEN. REA asked if HB 233 would eliminate the violation of jaywalking. SEN. SWYSGOOD replied he would assume that jaywalking could still be enforced in appropriate situations. HB 233 would not allow pedestrians to just wander out into the street; they would need to cross at an intersection or a designated crosswalk.

SEN. KOEHNKE stated he was not sure he approved of HB 233. He said he had often seen pedestrians step off the curb and visit for five or ten minutes before crossing the street. If HB 233 would make it illegal for motorists to drive by, they could have to wait until the pedestrians had finished their conversation and proceeded across the street.

SEN. REA said a good example of SEN. KOEHNKE's point are crosswalks or intersections near schools; kids often get halfway across the street and start "dinking around in the middle of the street". He said if motorists are required to wait until they crossed the entire street, then that might tie-up traffic. He was not sure if making drivers wait was all bad.

SEN. STANG stated marked crosswalks are already covered under current law.

CHAIRMAN WEEDING asked if any specific situation or occurrence had prompted HB 233. **SEN. SWYSGOOD** stated the House amended most of the title's references out of HB 233. He stated he believed the only thing HB 233 would change in current law would be the stipulation of "an unmarked crosswalk at an intersection".

SEN. STANG stated he would like to ask **Rep. Benedict** why he had sponsored HB 233. He said he remembered a similar bill in a past session that had been killed for a "real good reason" although he could not remember what that reason was. **CHAIRMAN WEEDING** assured the Committee he would not call for a motion on HB 233 until **Rep. Benedict** has had an opportunity to present his arguments.

SEN. SWYSGOOD stated the only thing HB 233 would change in the statute other than crossing out the "half-way language" would be to add "the unmarked crosswalk at an intersection". **CHAIRMAN WEEDING** said he could imagine some applications for that new language. He gave as an example the intersection of Eleventh and Montana Avenues in Helena where an older man often crosses the street, but cannot get across the intersection before the light changes.

SEN. SWYSGOOD noted another application would be established crosswalks that have not been repainted for awhile. He stated a lot of towns do not regularly paint their crosswalks and if the white paint is not visible a motorist might assume they were not in a crosswalk area and drive through it even if a pedestrian has just started walking across that now unmarked crosswalk.

Opening Statement By Sponsor:

Rep. Benedict stated HB 233 is a "super simple easy bill" which would rectify a very dangerous situation in Montana affecting children, senior citizens and disabled individuals. He explained current law enables motorists to continue through a marked crosswalk unless the pedestrian is about to cross into the motorist's lane of traffic. According to **Mr. Benedict**, HB 233 would make it mandatory for traffic to halt in both lanes of traffic when a pedestrian steps off the curb, bring Montana "out of the dark ages", and establish legal protection for those citizens who are most vulnerable: pedestrians, senior citizens, children, and the disabled.

Questions From Committee Members and Responses:

SEN. STANG asked **Rep. Benedict** to explain why HB 233 made reference to "unmarked crosswalks". He stated the Committee could understand and agreed with HB 233 as it applies to marked crosswalks. **Rep. Benedict** replied he thought that portion of HB 233 was to address the situation in rural areas where there are no marked crosswalks because of low pedestrians traffic in the area, but where pedestrians need to be able to cross a busy highway.

SEN. KOEHNKE asked how motorists would be informed if HB 233 were to become law. **Rep. Benedict** replied HB 233 was brought more as an urban measure and he knew that the city traffic manager in Missoula had a program in place to promote public awareness of the legal changes mandated by HB 233. He stated the Highway Patrol and law enforcement authorities would have to initially exercise discretion and make an effort to educate motorists. He said the current law has "been on the books for a long long time" and change could not be immediate. He emphasized, however, HB 233 deals with an issue that needs to be addressed.

SEN. STANG asked **Rep. Benedict** if he would object if the Committee eliminated the "unmarked crosswalks" from HB 233. He stated he thought that seemed to be the only part the Committee found offensive in HB 233. **Rep. Benedict** asked for the chance to do some research to find out whether that amendment would present any problem. He stated HB 233 was modeled after bills passed by other states. He informed the Committee that Montana is one of the last states not to have adopted similar legislation.

SEN. BRUSKI-MAUS pointed out that in her district there are very few painted crosswalks, and they are only on highways. She stated the safety of people crossing at residential intersections is just as valid as that of people on marked crossings.

SEN. KOEHNKE asked if HB 233 was modeled after a California law. **Rep. Benedict** replied he was not positive which states' legislation the drafters modeled HB 233. **SEN. KOEHNKE** responded "if it is, I'm not voting for it"!

Rep. Benedict stated he was not sure which law HB 233 was modeled after because he had asked the drafters to find legislation in different states that would do what was necessary to improve pedestrian safety in Montana. He explained one of the reasons he had requested HB 233 was an incident that happened in Missoula. He informed the Committee that his daughter is in a wheel chair she and lives in Missoula at a place called Eagle Watch where there is a marked crosswalk and yellow flashing lights, but motorists never stop. He said a motorist hit a person in a wheelchair at an intersection where the wheelchair could be seen coming across four lanes of traffic. He emphasized that the purpose of HB 233 was not to worry about California or Texas or any place else, but to worry about Montanans and put some protection for them in Montana's statutes.

SEN. KOEHNKE asked what the penalty for motorist non-compliance would be. **Rep. Benedict** replied HB 233 did not stipulate any specific penalty. He stated the various jurisdictions would have to establish their own penalty. **CHAIRMAN WEEDING** said he believed Montana law contained some general violation statute.

SEN. STANG said he had read that story in the paper, but believed current law covered that situation. He explained it was a marked crosswalk and, in order to be hit, the victim had to be in the

motorist's half of the driving lane. He concluded the accident involved a stupid driver and a change in the law would not alter that situation. **Rep. Benedict** stated HB 233 is before the Committee because they discovered that motorists were not stopping in any of the lanes of traffic in Missoula.

Rep. Benedict apologized for being late; he said he was in Labor.

Tom Gomez informed the Committee that the law already speaks to the matter of unmarked crosswalks. He stated the current law stipulates unmarked crosswalks and establishes other statutory provisions which speak to requirements for crossing at crosswalks both marked and unmarked at an intersection. He said HB 233 uses the same language.

Closing by Sponsor:

Rep. Benedict closed.

EXECUTIVE SESSION ON HOUSE BILL 233

Discussion:

CHAIRMAN WEEDING asked if any committee member objected to taking action on HB 233. **SEN. STANG** replied he would suggest taking out the reference to the "unmarked crosswalk". **Tom Gomez** stated that provision was already in the law in MCA 61-8-503 which is the section following the one HB 233 would amend. He said this section refers to pedestrians "crossing at a roadway at any point at any point within a marked crosswalk or within an unmarked crosswalk at an intersection". He stated this section stipulates the pedestrian who is not in a marked crosswalk or an unmarked crosswalk at an intersection must yield to all cars on a roadway. He said this section also specifies other things regarding pedestrians crossing streets at intersections in instances when traffic control signals are in operation on both streets.

SEN. STANG asked if HB 233 would create a conflict since MCA 61-8-503 required that the pedestrian yield, whereas HB 233 would require the motorists to yield. **SEN. BRUSKI-MAUS** replied MCA 61-8-503 required the pedestrian to yield on the roadway, but not at the intersection.

SEN. STANG asked if all committee members could have a copy of those statutes before taking HB 233 under consideration. **CHAIRMAN WEEDING** agreed.

SEN. KOEHNKE asked if those statutes already covered pedestrians in a marked crosswalk. **Tom Gomez** stated that the law currently states, with respect to any crosswalk, that the motorist has to yield to pedestrians but only when the pedestrian has reached that portion of the road where the motorist is or where they get so close that the pedestrian is in danger.

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

March 9, 1993

Page 10 of 10

SEN. KOEHNKE asked if the person who had been hit in Missoula was already covered under existing law. **CHAIRMAN WEEDING** asked **Tom Gomez** to run off copies of the sections pertaining to HB 233 for the next committee meeting.

SEN. SWYSGOOD stated he believed current law allows traffic to move until that pedestrian enters a lane of traffic that vehicles are in. HB 233 would mandate that traffic come to a halt as soon as a pedestrian steps off the curb and remain stopped until the pedestrian has safely crossed the highway. **CHAIRMAN WEEDING** concurred. **SEN. SWYSGOOD** stated the current law applies to both marked and unmarked crosswalks at intersections.

CHAIRMAN WEEDING informed the Committee that the Department of Justice had requested a re-hearing on SB 373 and it has been scheduled for March 11, 1993.

ADJOURNMENT

Adjournment: 3:45 p.m.



SENATOR CECIL WEEDING, Chair



BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE March 9, 1993

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CECIL WEEDING, CHAIR	X		
SENATOR BETTY BRUSKI-MAUS, V-CHAIR	X		
SENATOR DARYL TOELDS	X		
SENATOR JOHN HARP	X		
SENATOR FRANCIS KOEHNKE	X		
SENATOR JACK "DOC" REA	X		
SENATOR LARRY TVELT	X		
SENATOR CHARLES SYLWEGOOD	X		
SENATOR BARRY "SPOOK" STANG	X		
SENATOR HENRY MCCLERNAN	X		

DATE 9 March 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: HB 404, HB 233, HB 446

Name Representing Bill No. Check One
Support Oppose

Hal Hanson	American Legion	HB 404	X	
Tommy Cumming	Marine Corps League	HB 404	X	
George Poston	United Veterans Com. NAT	HB 404	X	
Dick Baumberger	Disabled Am. Veterans	HB 404	X	
JAMES F JACOBSEN	VETERANS AFFAIRS DIVISION	HB 404	X	
Larry Longfellow	Veterans of Foreign Wars	414	X	
GENE KISER	M.B.C.C.	HB 446	X	
DAVE GALT	MDT	HB 446	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HOUSE BILL 233Discussion:

Tom Gomez distributed information he had compiled on HB 233 at the request of SEN. SWYSGOOD and SEN. STANG (Exhibit # 4). He explained the information compared the use of the concepts "marked and unmarked crosswalks at an intersection" in current statute and in HB 233. He summarized its contents for the Committee and concluded that HB 233 made use of language in current statute and would only change current law by requiring motorists in all lanes of traffic to stop as soon as a pedestrian stepped off the curb.

SEN. SWYSGOOD said he felt the language in HB 233 did not expand or detract on the definition of an unmarked crosswalk at an intersection, since that definition is in current statute. He stated, however, he was concerned about how the potential change would affect motorists' ability to turn right on red after stop.

SEN. REA commented HB 233 would have a major impact in Helena where it could cause traffic to backup at the marked crosswalk on Montana Avenue.

SEN. KOEHNKE said he thought SEN. STANG wanted to amend HB 233. SEN. SWYSGOOD stated SEN. STANG had intended to amend HB 233 relating to "unmarked crosswalks". SEN. SWYSGOOD added SEN. STANG's proxy vote showed he would vote "no" on HB 233 even if such an amendment were adopted.

CHAIRMAN WEEDING noted that he was unsure HB 233 would accomplish what the bill's sponsor wanted. SEN. TOEWS agreed with CHAIRMAN WEEDING and stated Rep. Benedict wanted to address a very specific situation in Missoula. He added the passage of such a law would not solve such special circumstances and stated a change to the statute was not justified in this case.

CHAIRMAN WEEDING said current law addressed the situation which motivated HB 233, so the problem was lack of enforcement.

SEN. SWYSGOOD stated the title and intent of HB 233 were confusing. The committee members discussed both the intent and title of HB 233 and concluded by agreeing with SEN. SWYSGOOD's comment.

Motion/Vote:

SEN. KOEHNKE moved TO TABLE HB 233. The MOTION CARRIED UNANIMOUSLY.

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE MARCH 18, 1993

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CECIL WEEDING, CHAIR	X		
SENATOR BETTY BRUSKI-MAUS, V-CHAIR	X		
SENATOR DARYL TOELJS	X		
SENATOR JOHN HARP		X	
SENATOR FRANCIS KOEHNKE	X		
SENATOR JACK "DOC" REA	X		
SENATOR LARRY TVELT	X		
SENATOR CHARLES SYWSOOD	X		
SENATOR BARRY "SPOOK" STANG	X		
SENATOR HENRY MCCLERNAN	X		

F08

Attach to each day's minutes

COMPARISON OF HB 233 AND CURRENT LAW

SENATE HIGHWAYS

EXHIBIT NO. 4

DATE March 18, 1993

BILL NO. HB 233

Current law

1. A pedestrian has the right-of-way in crosswalks. The driver of a vehicle must yield the right-of-way to a pedestrian crossing within a crosswalk when:

(a) the pedestrian is upon the half of the road where the vehicle is traveling; or

(b) the pedestrian is approaching so closely from the opposite half of the road as to be in danger. Section 61-8-502, MCA.

2. A crosswalk, for purposes of the law, includes:

(a) a marked crosswalk, which is any portion of a road "distinctly indicated for pedestrians crossing (the road) by lines or other markings on the surface" of the road;

(b) an unmarked crosswalk at an intersection, which is "that part of the roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway."

Section 61-1-209, MCA

3. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. Section 61-8-502, MCA.

4. Motor vehicles have the right-of-way at places other than crosswalks. Pedestrians crossing the road at any point other than a marked crosswalk or unmarked crosswalk at an intersection must yield the right-of-way to all vehicles upon the roadway. Section 61-8-503, MCA.

HB 233

1. A pedestrian has the right-of-way in crosswalks. The driver of a vehicle must yield the right-of-way to a pedestrian crossing the road within a marked crosswalk or within an unmarked crosswalk at an intersection. Once the pedestrian is within a marked or unmarked crosswalk, drivers on both halves of the road must yield.

2. HB 233 uses the specific terms "marked crosswalk" and "unmarked crosswalk at an intersection" rather than the general term "crosswalk."

3. No change. See section 1, HB 233.

4. No change. Statute is not amended.

Cross-References

Driving on roadways laned for traffic,
61-8-328.

61-1-208. Sidewalk. "Sidewalk" means that portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

History: En. Sec. 14, Ch. 263, L. 1955; amd. Sec. 2, Ch. 247, L. 1959; R.C.M. 1947, 32-2114(d).

Cross-References

Construction and maintenance of
sidewalks, curbs, and gutters, 7-14-4122.
Regulation of sidewalks, 7-14-4123.

Pedestrian's right-of-way on sidewalks,
61-8-509.

Bicycles on sidewalks, 61-8-608.

61-1-209. Crosswalk. "Crosswalk" means:

(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

History: En. Sec. 16, Ch. 263, L. 1955; R.C.M. 1947, 32-2116.

Cross-References

Pedestrian malls, Title 7, ch. 14, part 47.

School safety patrols, 20-1-408.

Pedestrian traffic, Title 61, ch. 8, part 5.

61-1-210. Through highway. "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in chapter 8 of this title.

History: En. Sec. 14, Ch. 263, L. 1955; amd. Sec. 2, Ch. 247, L. 1959; R.C.M. 1947, 32-2114(f).

Cross-References

"Throughway" defined, 60-5-102.

61-1-211. Controlled-access highway. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

History: En. Sec. 14, Ch. 263, L. 1955; amd. Sec. 2, Ch. 247, L. 1959; R.C.M. 1947, 32-2114(g).

Cross-References

"Controlled-access highway" defined,
60-5-102.

Restricted and controlled access, 61-8-331.

Restrictions on use of controlled-access
roadway, 61-8-332.

61-1-212. Intersection. (1) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if none then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles or the area within which vehicles

EXHIBIT 4
 DATE 3/18/43
KB 233

Cross-References

Chemical blood, breath, or urine tests,
 61-8-402.

61-8-408. Multiple convictions prohibited. When the same acts may establish the commission of an offense under both 61-8-401 and 61-8-406, a person charged with such conduct may be prosecuted for a violation of both 61-8-401 and 61-8-406. However, he may only be convicted of an offense under either 61-8-401 or 61-8-406.

History: En. Sec. 6, Ch. 698, L. 1983.

Cross-References

Self-incrimination and double jeopardy,
 Art. II, sec. 25, Mont. Const.

Part 5

Pedestrian Traffic

Part Cross-References

Pedestrian malls, Title 7, ch. 14, part 47.
 Duty and civil liability of pedestrian or
 driver approaching blind person, 49-4-216.

Penalty for violation of duty or unauthorized use of cane, 49-4-217.

"Pedestrian" defined, 61-1-308.

61-8-501. Pedestrians subject to traffic regulations. (1) Pedestrians shall be subject to traffic-control signals at intersections as provided in 61-8-207 unless required by local ordinance to comply strictly with such signals, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this part.

(2) Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

History: En. Sec. 73, Ch. 263, L. 1955; R.C.M. 1947, 32-2176.

Cross-References

Municipal ordinances, 7-5-4201.
 "Crosswalk" defined, 61-1-209.

"Traffic-control signal" defined, 61-1-402.

"Business district" defined, 61-1-408.

61-8-502. Pedestrians' right-of-way in crosswalk. (1) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is

impossible for the driver to yield. This provision shall not apply under the conditions stated in 61-8-503(2).

(2) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(3) It is unlawful for any person to drive a motor vehicle through a column of school children crossing a street or highway or past a member of the school safety patrol while the member of the school safety patrol is directing the movement of children across a street or highway and while the school safety patrol member is holding his official signal in the stop position.

History: En. Sec. 74, Ch. 263, L. 1955; amd. Sec. 1, Ch. 54, L. 1965; R.C.M. 1947, 32-2177.

Cross-References

School safety patrols, 20-1-408.

"Crosswalk" defined, 61-1-209.

"Right-of-way" defined, 61-1-406.

When overtaking on right is permitted, 61-8-324.

61-8-503. Crossing at other than crosswalks. (1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

History: En. Sec. 75, Ch. 263, L. 1955; R.C.M. 1947, 32-2178.

Cross-References

"Crosswalk" defined, 61-1-209.

"Intersection" defined, 61-1-212.

"Traffic-control signal" defined, 61-1-402.

"Right-of-way" defined, 61-1-406.

61-8-504. Drivers to exercise due care. Notwithstanding the foregoing provisions of this part, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or with any person operating a bicycle upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

History: En. Sec. 76, Ch. 263, L. 1955; R.C.M. 1947, 32-2179; amd. Sec. 8, Ch. 450, L. 1983.

Cross-References

"Bicycle" defined, 61-1-123.

Horns and warning devices, 61-9-401.

61-8-505. Pedestrians to use right half of crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

History: En. Sec. 77, Ch. 263, L. 1955; R.C.M. 1947, 32-2180.

Cross-References

"Crosswalk" defined, 61-1-209.

61-8-506. Pedestrians on roadways. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

History: En. Sec. 78, Ch. 263, L. 1955; R.C.M. 1947, 32-2181.

Cross-References

"Roadway" defined, 61-1-206.

"Sidewalk" defined, 61-1-208.

61-8-507. Pedestrian soliciting rides or business. (1) No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

History: En. Sec. 79, Ch. 263, L. 1955; R.C.M. 1947, 32-2182.

61-8-508. Intoxicated pedestrian. No person shall walk upon or along the highway while under the influence of intoxicating liquor.

History: En. Sec. 80, Ch. 263, L. 1955; R.C.M. 1947, 32-2183.

Cross-References

Intoxication — criminal laws limitation, 53-24-106.

Public intoxication not a criminal offense, 53-24-107.

61-8-509. Pedestrian's right-of-way on sidewalks. The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any pedestrian and all other traffic on the sidewalk.

History: En. Sec. 12, Ch. 450, L. 1983.

Cross-References

"Sidewalk" defined 61-1-208.

"Right-of-way" defined, 61-1-406.

Part 6

Bicycle Traffic

Part Cross-References

Footpaths and bicycle trails, Title 60, ch. 3, part 3.

"Bicycle" defined, 61-1-123.

61-8-601. Effect of regulations. (1) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this part.

(2) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

EXHIBIT 4
DATE 3/18/93
H3 233

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on March 31, 1993, at 7:40 a.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. Doc Rea (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: Sen. Toews, Sen. Harp, Sen. Stang

Members Absent: Sen. Koehnke

Staff Present: Tom Gomez, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: HB 233

EXECUTIVE ACTION ON HOUSE BILL 233

Motion/Vote:

SEN. SWYSGOOD moved THE COMMITTEE RECONSIDER ITS ACTION TO TABLE HB 233. The MOTION CARRIED UNANIMOUSLY.

Discussion:

SEN. SWYSGOOD said Rep. Benedict had requested that the Committee reconsider HB 233. **SEN. SWYSGOOD** stated he did not believe HB 233 would put an end to incidents like the one which had prompted the bill. He said, however, he had agreed to make the attempt to pull HB 233 off of the Committee table and amend it to meet the Committee's favor because many people would like to see HB 233 adopted.

Discussion:

SEN. SWYSGOOD stated the one concern he had with HB 233 was its potential effect on the continuous right turn on red after stop currently allowed motorists at traffic signals. He said HB 233, in its current form, would make that traffic maneuver illegal as soon as a pedestrian stepped off the curb on the other side of the street. SEN. SWYSGOOD introduced an amendment Rep. Benedict had suggested which would allow "that when a vehicle is stopped in a marked crosswalk or an unmarked crosswalk at an intersection the driver of the vehicle may make a right hand turn if the pedestrian is in the opposite half of the roadway and is not in danger" (Exhibit #1). He explained the amendment would allow the law to remain the same with regard to the continuous right turn after red.

Motion:

SEN. SWYSGOOD moved TO AMEND HB 233 (Exhibit #1).

Discussion:

SEN. TVEIT asked what would happen if a pedestrian was in the motorist's lane of traffic when the motorist wanted to turn right after stopping at a red light. SEN. SWYSGOOD replied that if a pedestrian was in the motorist's lane, that motorist would not be able to make the right turn until the pedestrian was safely out of that lane of traffic.

SEN. TVEIT said the motorist cannot make that turn when a pedestrian is in the crosswalk. SEN. SWYSGOOD said that traffic maneuver would not be possible under current law.

SEN. TVEIT stated under HB 233, if a pedestrian stepped off the curb, the motorist could not make a right turn until the pedestrian was across the street. SEN. SWYSGOOD said the amendment he had introduced would solve that problem; it would allow motorists to make a continuous right turn when the pedestrian is not in their lane of traffic.

SEN. BRUSKI-MAUS asked if using the phrase "if the pedestrian were not in his lane of traffic" instead of "if the pedestrian is in the opposite half of the roadway" were preferable. SEN. SWYSGOOD said the amendment would keep the law applying to right turns on red consistent with current law.

SEN. REA said HB 233 would require motorists in both lanes to remain stopped until the pedestrian was completely across the roadway. He stated HB 233 could create quite a problem at crosswalks like the crosswalk across Montana Avenue by Helena High School. He explained that crosswalk is long and, at busy times, cars end up being backed up "clear down to malfunction junction".

SEN. TVEIT said if the lights over the crosswalk are flashing, current law requires that all motorist stop until the crosswalk

is clear. SEN. REA stated cars now proceed down Montana Avenue as soon as the pedestrians have crossed the median.

SEN. SWYSGOOD said there is a school crosswalk in Dillon which students use when they change classes and go from one school building to the other. He explained that under current law, even though that crosswalk is on a four-lane highway, all motorists are required to stop and wait until that crosswalk is empty. He stated HB 233 would give motorists more latitude than they have under the current law.

CHAIRMAN WEEDING expressed his agreement with SEN. SWYSGOOD. In response to SEN. REA's concern about the crosswalk by Helena High School, CHAIRMAN WEEDING said he thought a separate traffic rule would apply in such situations.

SEN. SWYSGOOD said he did not think HB 233 could address or correct these problems. He stated, however, he did not think HB 233 would make such a situation any different.

CHAIRMAN WEEDING agreed with SEN. SWYSGOOD that HB 233 did not address situations involving school crosswalks.

SEN. BRUSKI-MAUS said if the language in the amendment would refer to the "lane of traffic", the time that motorists would be required to wait would be reduced considerably.

SEN. SWYSGOOD said the language in HB 233 reads "the driver of a vehicle shall yield the right of way, slowing down or stopping". He stated a motorist would not have to stop, "if need be to so yield to a pedestrian crossing the roadway within a marked crosswalk or within an unmarked crosswalk intersection". He stated the words "when a pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger" were stricken.

CHAIRMAN WEEDING said HB 233 would actually give motorists a little more latitude while urging caution. SEN. SWYSGOOD agreed with CHAIRMAN WEEDING.

CHAIRMAN WEEDING stated he thought the amendment SEN. SWYSGOOD had presented resolved the issue of the continuous right turn. He added he did not think HB 233 had any other problems.

Vote:

The AMENDMENT CARRIED UNANIMOUSLY

Motion/Vote:

SEN. SWYSGOOD moved HB 233 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY. The Committee decided that either SEN. RYE or SEN. HALLIGAN will carry HB 233 on the Senate floor.

ADJOURNMENT

Adjournment: 7:55 a.m.



SENATOR CECIL WEEDING, Chair



BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE MARCH 31, 1993

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CECIL WEEDING, CHAIR	X		
SENATOR BETTY BRUSKI-MAUS, V-CHAIR	X		
SENATOR DARYL TOELJS			X
SENATOR JOHN HARP		X	X
SENATOR FRANCIS KOEHNKE		X	
SENATOR JACK "DOC" REA	X		
SENATOR LARRY TVELT	X		
SENATOR CHARLES SYWSOOD	X		
SENATOR BARRY "SPOOK" STANG		X	X
SENATOR HENRY MCCLERNAN	X		

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 31, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 233 (third reading copy -- blue), respectfully report that House Bill No. 233 be amended as follows and as so amended be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Page 1, line 14.

Strike: "When"

Insert: "(a) Except as provided in subsection (1)(b), when"

2. Page 2, line 3.

Following: line 2

Insert: "(b) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of a vehicle may make a right-hand turn if the pedestrian is in the opposite half of the roadway and is not in danger."

-END-

AN Amd. Coord.
Sec. of Senate

Hall
Senator Carrying Bill

720831SC.San

EXHIBIT 1
DATE 3/31/93
HB 233

1. Page 1, line 14.

Strike: "When"

Insert: "(a) Except as provided in subsection (1)(b), when"

2. Page 2, line 3.

Following: line 2

Insert: "(b) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of a vehicle may make a right-hand turn if the pedestrian is in the opposite half of the roadway and is not in danger."